IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.582 OF 2004

Sau Manorama W/o Ramnarayan
Jakete & Anr. : Appellants.

versus

Chemosol Industries (India)
Pvt.Ltd. : Respondent.

Mr.P.J.Thorat i/by M/s.Madhavi Javanandi for the appellants.
Mr.G.S.Godbole with Mr.P.Arjunwadkar for the respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 18th October 2005.

ORAL ORDER

1. Heard advocates for the appellants and respondent. The appellants are the original plaintiffs. They had filed a suit for compensation. The Joint Civil Judge, Senior Division, Alibag awarded Rs.1,69,000/- by way of

compensation. There is no cross objection or appeal by the respondent.

2. Only one submission was made by the appellants and, that is regarding the interest part of the impugned judgment. The trial court awarded 12% interest on the decretal amount from the date of the order. The contention of the appellants is that the interest should have been awarded from the date of the suit if not from the date of the death.

3. Mr.Godbole appearing for the respondent made two submissions. He contended that 12% interest from the date of the suit now cannot be awarded because there is no prayer for the same and secondly he contended that interest cannot be granted in case of compensation when the matter arises out of tort. Both these submissions are required to be rejected and they are rejected. Because grant of interest under Section 32 is a discretion of the Court. The discretion was not properly and judicially exercised. So far as 2nd submission is concerned, all the claims under the Motor Vehicles Act arise out of tort, for which the statutory provision is made. Therefore,

there is no principle of law and nothing in that regard is shown to me that in case of compensation arises out of tort, interest cannot be awarded.

4. So far as submission of the appellant is concerned, there is strong legal force in it. If at all the respondent-company is held liable to pay compensation and interest is awarded, then there was no reason for the trial court to award interest from the date of the order. Therefore, appeal has to be allowed. Hence I pass the following order :-

:ORDER:

Appeal is allowed so far as it relates to the prayer of interest and part of the order of lower court regarding interest is modified as under :-

The defendants are ordered to pay interest at the rate of 12% p.a. on the decretal amount from the date of filing of the suit till realisation.

No order as to costs of this appeal.

[D.G.DESHPANDE]